

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion (1) was not written for publication and (2) is not binding precedent of the Board.

Paper 7

Filed by:

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

LEONARD ANDRUS and JEFFREY KOT

Junior Party,
(Application 29/091,500),
v.

HING FAI TSE

Senior Party
(Application 29/090,263).

Patent Interference No. 104,463

Before: SCHAFER, LEE and TORCZON, Administrative Patent Judges.

PER CURIUM

JUDGMENT PURSUANT TO 37 CFR § 1.662(a)

Junior Party Andrus, through counsel, has filed an express abandonment of his involved design application 29/091,500. A copy of the express abandonment is attached to and made part of this judgment. Section 1.662(a) of Title 37 provides in relevant part:

Abandonment of an application, other than an application for reissue having a claim of the patent sought to be reissued involved in the interference, will be treated as a request for entry of an adverse judgment against the applicant as to all claims corresponding to all counts.

Andrus' express abandonment of the application is treated as a request for adverse judgment as to the sole design claim and count 1. Accordingly, it is

ORDERED that judgment on priority as to Count 1 (Paper 1, p. 32) the sole count in the interference, is awarded against the junior party LEONARD ANDRUS and JEFFREY KOT.

FURTHER ORDERED that, judgment on priority as to Count 1 is awarded in favor of senior party HING FAI TSE.

FURTHER ORDERED that, on the record before the Board of Patent Appeals and Interferences, junior party LEONARD ANDRUS and JEFFREY KOT is not entitled to a patent containing the sole claim (corresponding to Count 1) of application 29/091,500, filed July 30, 1998.

FURTHER ORDERED that on the record before the Board of Patent Appeals and Interferences, senior party HING FAI TSE is entitled to a patent containing the sole claim (corresponding to Count 1) of application 29/090,263, filed July 3, 1998.

FURTHER ORDERED that a copy of this decision be given a paper number and be made of record in the files of applications 29/091,500 and 29/090,263.

_____)
RICHARD E. SCHAFER)
Administrative Patent Judge)
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_____)
JAMESON LEE)
Administrative Patent Judge)
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_____)
RICHARD TORCZON)

BOARD OF PATENT
APPEALS AND
INTERFERENCES

Administrative Patent Judge)

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